

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Michael Troy Olson,

Defendant.

ORDER

Criminal No. 04-398 ADM/FLN

Michael Troy Olson, pro se.

This matter is before the undersigned United States District Judge for consideration of Defendant Michael Troy Olson's ("Olson") Pro Se Motion [Docket No. 96]. For the reasons set forth below, Olson's Motion is denied.

The factual and procedural history of this case have been set forth at length in the Court's previous Orders and will not be repeated here. Olson's latest filing complains that the search warrant in his case has been destroyed, allegedly in contravention of a Hennepin County policy that dictates search warrants should be kept for six years after execution. While it is unclear from the record here what Hennepin County's document retention policy actually is and whether that policy was violated, it is immaterial as the Court cannot provide Olson with any relief. To the extent that Olson seeks to attack his sentence or conviction, his Motion would be construed as a motion under 28 U.S.C. § 2255 and be prohibited as a successive motion as he has not received certification from the Court of Appeals. See 28 U.S.C. § 2255(h) (barring successive motions without certification from the Court of Appeals). To the extent he seeks some other relief, it is unclear what that is and the Court is not required "to divine the litigant's intent and

create claims that are not clearly raised.” Bediako v. Stein Mart, Inc., 354 F.3d 835, 840 (8th Cir. 2004).

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Olson’s Pro Se Motion [Docket No. 96] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: March 28, 2011.